



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Date: October 26 , 2020

CONDOMINIUM REVIEW BOARD FY20 ANNUAL REPORT

As per Somerville Condominium Conversion Ordinance (SCCO) Section 7-70, this document serves as an annual report of the business of the Somerville Condominium Review Board (CRB) for Fiscal Year 2020 (July 1, 2019-June 30, 2020).

Board membership and Organizational Information

As of June 2019, the Condominium Review Board had five members as called for under the SCCO. Members included Board Chair Zachary Zasloff, Board Vice-Chair Patricha Paul, Vikram Kanda, Elizabeth Janiak, and William Medeiros. Board members Zasloff, Janiak and Medeiros are up for reappointment. Members Kanda and Paul both remain in their initial terms. Additionally, an alternate board member position was created in the updated SCCO. This alternate position is currently in the process of being filled.

Condominium Conversion - Summary Information and Process Overview

As of FY 2020 year-end, there were approximately 31,608 total private housing units¹ in Somerville. Roughly 70.9% of all private housing units are rental units (about 22,412 units). There are approximately 6,259 total condominium units currently in Somerville, according to data maintained by the City's Assessing Department, with 3,835 or roughly 61.3% being owner-occupied. This totals approximately 19.8% of the total private housing units in the City as of FY20 year-end, and an increase of 685 condominium units (both from conversion and new construction) from FY19 to FY20.

Somerville's updated Condominium Conversion Ordinance was first implemented as of October 7, 2019. Approved applications converting a rental unit to a condominium unit receive a Final Conversion Permit. Approved applications converting a unit that has never been rented (generally a unit that is/was owner-occupied) to a condominium unit receive a Non Rental Conversion Permit. Applications that have been reviewed by the Board, but are still pending final submission of required documents receive a Preliminary Conversion Permit conditioned on the completion of the application.

¹ Figures provided by Somerville Assessing Department.

Application Data Summary

In FY20, 94 applications – encompassing 94 buildings and 199 units – were submitted for condominium conversion. Of those 199 units, 134 were submitted for current or former rental units. That total is down significantly from FY19, during which applications for 290 rental units were submitted.

In FY20, 36 of all applications submitted (totaling 73 units) were completed and granted Final Conversion or Non Rental Conversion Permits. An additional 58 applications, for a total of 126 units, were granted conditional approval, bringing the total number of units either approved for or conditionally approved for condominium conversion to 199.

Because the updated SCCO went into effect during FY20, only 63 of the units submitted for conversion were submitted under the updated SCCO and thus are subject to the revised requirements. The remaining 136 units submitted in FY20 are subject to the requirements of the former SCCO, as those applications were submitted before the updated Ordinance was enforced.

SCCO Update and Impact (*Updated Ordinance Implemented October 7, 2020*)

City staff prepared multiple new documents for both tenants and property owners, to provide them with guidance and information on requirements of the SCCO. Materials developed included: a revised application, Rules, Standard Operating Procedures, a property owner FAQ, a Tenant FAQ, and both property owner and tenant flyers. Additional informational documents and flyers on tenant rights were developed to ensure that both property owners and tenants could easily access information on tenant protections afforded by the SCCO. City staff involved with SCCO drafting and preparation for implementation conducted a training session for CRB members on its requirements prior to the effective date of October 7, 2020. Staff to the CRB continue to be in frequent communication with applicants and tenants alike.

Updating the SCCO had a major impact on application volume during the final quarter of FY19. In June 2019 alone 74 applications were submitted; an unprecedented number. Twelve months later, in June 2020, 3 applications were submitted. The late-FY19 spike in applications seen in Table 1 occurred in anticipation of the updated Ordinance's effective date, as property owners did not want to be subject to additional requirements included in the updated SCCO. Of the 199 total units submitted, 136 were submitted over the last three months the former SCCO was in effect, with the remaining 63 units submitted over a span of nine months under the updated SCCO (i.e., October 2019 through June 2020)

Table 1- FY20 Applications Submitted

Date of Meeting Application was Considered	Number of Applications Submitted		Date of Meeting Application was Considered	Number of Applications Submitted
June 13 2019	44		November 25 2019	2
June 24 2019	30		December 16 2019	2
July 29 2019	23		January 27 2020	1
August 21 2019	26		February 24 2020	4
September 5 2019	10		April 27 2020 ²	7
October 7 2019*	6		June 1 2020	3
October 28 2019	7		June 29 2020	3

*New Ordinance in effect as of October 7, 2020 hearing.

² The March hearing was canceled due to the corona virus pandemic so the April hearing included both March and April applications.

Vacant Unit Data

Of the 94 applications submitted for conversion in FY20, 38 (40.4%) of them included one or more vacant units. This percentage is dramatically lower than the percentage for the preceding year FY19 (71.2%). This decline suggests the application requirements for vacant units in the updated ordinance are having some impact in reducing a previously common practice of displacing tenants prior to submitting a condominium conversion application.

Under the former SCCO, the process for securing a Removal Permit for a vacant unit (which allowed the sale of a unit as a condominium unit under the former SCCO) was generally much quicker than it was for a tenanted unit. There was essentially an incentive of sorts for property sellers to empty their units prior to sale. Compounding this situation was the fact that the Board had neither the authority to investigate how a unit became vacant nor the means of contacting former tenants to determine if they had been evicted as part of a condominium conversion effort. Two trends resulting from this dynamic had been displacement of tenants prior to the submission of an application for condominium conversion and, not coincidentally, the vast majority of applications being submitted for vacant units. The dramatic decrease in the percentage of applications being for vacant units – from 71.2% in FY19 to 40.4% in FY20 – suggests that ordinance revisions are having a substantive impact in ensuring that tenants access the rights afforded by the SCCO.

Tenanted Units under the Updated SCCO

Under the updated SCCO, all current and former tenants from within the preceding 12 months are entitled to notice of the CRB hearing at which their former unit will be on the agenda at least two weeks in advance of the hearing. Under the updated SCCO there were 10 applications submitted during FY20 that included currently and/or formally tenanted units entitled to hearing notice. In those 10 applications there was a total of 21 units submitted for conversion, with 13 of them being tenanted. There were also eligible former tenants in 6 of the units. All eligible tenants were provided with notice of the CRB hearing when their unit would be on the agenda.

While under the former SCCO it was rare that a tenant would attend a CRB hearing (aside from the 2019 Millbrook Lofts conversion which involved a 100 unit building and had extensive tenant participation), there have already been at least three instances of tenant participation- both in person and virtually- since the updated SCCO went into effect. In addition to those who actually attended and participated in the CRB hearings, many current and former tenants have reached out to CRB staff with questions- another positive result of sending hearing notice that includes staff contact information directly and in advance to eligible tenants. All former and current tenants are contacted directly by CRB staff either by email or phone to make sure they understand the condominium conversion process and their rights during it.

Relocation Payments

The required relocation payment has increased from \$300 or one month's rent to \$10,000 for elderly, disabled and low/moderate-income tenants and \$6,000 for all other tenants- payment is per unit (not per tenant). Five of the 13 units that had tenanted units in FY20 received their relocation payment and six more units will be receiving the payment once they vacate their units, if they do so within the one year notice period. Tenants in two units made the decision to stay in their units past the one year notice period, forfeiting the relocation payment. All tenants that have been entitled to a relocation payment have received them, though in cases where there are multiple tenants in one unit the payment does not necessarily cover the full cost of moving.

COVID-19 Impact on Condominium Conversion

Due to the COVID-19 pandemic, Condominium Review Board hearings for the last quarter of FY 20 (April through June) were held virtually using GoToWebinar. Hearings during that period (and as of report issuance) have been held in accordance with Open Meeting Law and except for in March continued to follow the standard hearing schedule. Applications have been submitted via email and attendees can join hearing either virtually or by phone. All CRB members have been able to participate virtually.

Vacant Unit Waiting Period

The main change contributing to the reduced number of Final Conversion Permits granted in FY20 is the one year waiting period applicable to any vacant units submitted that were not formerly owner-occupied for at least 12 months prior to becoming vacant. Whereas under the former SCCO an applicant could purchase a vacant property where tenants were already displaced and obtain a permit to convert to condominium units within one to two months, there is now a one year waiting period for such units. This component of the updated SCCO was included in an effort both to incentivize owners to maintain their tenants during the waiting period, and also to help tenants access the rights afforded by the updated SCCO *prior* to being displaced or otherwise being prompted to move.

To facilitate the enforcement of this part of the ordinance, applicants are required to provide contact information for any tenants that had resided in the unit in the preceding 12 months. This information is provided via “Affidavit B” included in the application packet. Staff are then able to send notice of the upcoming CRB hearing to former tenants, who have the right to testify if they so choose. While former tenants do not necessarily have any right to their former unit, the CRB can deny an application if it is found that a condominium conversion eviction (i.e., an eviction sought for the purpose of facilitating the sale of the unit as a condominium) took place.

Removing incentives to submit an application for a vacant property was intended to help ensure tenants actually have the opportunity to exercise the rights afforded to them by the SCCO in a manner that is in their own best interest. This waiting period does not apply for formerly owner-occupied units to ensure the waiting period is not a burden for owner-occupants and their families. In addition, if illicit displacement does still occur and tenants are prematurely displaced, those tenants are entitled to notice of the hearing date and would have the right to testify before the CRB if it occurred within 12 months of their tenancy.

Non Rental Conversion versus Rental Conversion

Of the 199 total units that were submitted for conversion in FY20, 65 of them were for units that had been or currently are owner-occupied and 134 of them were formally or are currently rental units. The percent of total applications submitted for owner-occupied or formerly owner-occupied units increased from 7.6% in FY19 to 32.3% in FY20. This appears at least in part to reflect the one year waiting period for vacant rental units noted above, which is determined on a unit-by-unit basis rather than by property.

It appears that an increased volume of applications are being submitted for properties that have one owner-occupied unit and one or two rental units, with 17 of these types of applications being submitted in FY20 (8 of which were submitted under the updated SCCO). By comparison, a total of 9 such applications were submitted in FY19. This appears to indicate a shift from developer-owned conversion to resident-owned conversion. Fewer rental units in particular are being submitted for conversion, and overall the volume of condo conversion applications is lower than in preceding years.

SCCO changes were designed to enable owner-occupants to maximize their property value (through conversion), while protecting tenants from abrupt displacement. The increase in owner-occupied applications from FY19 to FY20 suggests that the SCCO as revised does still allows owners to convert. Table 3 below shows that the proportion of applications submitted for non-rental units (both currently and formerly owner-occupied) has increased, while rental conversion and conversion applications overall have decreased.

Table 2- Non Rental vs. Rental Conversions-FY20 and FY19

FY20			FY19		
Date/Permit Type	# of Units Submitted	% of Total	Date/Permit Type	# of Units Submitted	% of Total
FY20 Non Rental Conversions	65	32.3%	FY19 Non Rental Conversions	22	7.6%
FY20 Rental Conversion	134	67.6%	FY19 Rental Conversion	290	92%
FY20 Total	199	100%	FY19 Total	312	100%

Submissions- Former versus Updated Ordinance

Of the 65 Non rental conversion units submitted in FY20, 37 of them were submitted under the updated SCCO and 28 were submitted under the former SCCO. Of the 134 rental conversions, 112 were submitted under the former SCCO and 22 under the updated SCCO. Unfortunately none of the updated requirements, including tenant protections, can be applied to the applications submitted up until the September 5, 2019 Condominium Review Board hearing.

Right to Purchase Under the Updated SCCO

Under the updated SCCO, the City or its Designee (an affordable housing developer) has the right to purchase units that are either submitted vacant or are tenanted, where any tenants have waived their right to purchase. This right to purchase was designed to allow the City or Designee the opportunity to preserve a tenancy or create an affordable unit where there is no tenancy to preserve. The Right to Purchase can be exercised by a tenant, the City, or a local affordable housing developer designated by the City.

In order for an affordable housing developer to be appointed as a Designee, an application must first be submitted by the organization and approved by the Housing Division in the Mayor's Office of Strategic Planning and Community Development. The Housing Division is to maintain a list of all eligible affordable housing developers who have completed the application process and met the necessary requirements, which were modeled after Massachusetts General Law Chapter 40T. All organizations on the Designee list will receive each offer to purchase that is submitted to the Housing Division, and will have the opportunity to purchase.

Currently, there are no organizations on the designee list; the application process has been slowed by the current COVID-19 pandemic. Housing Division staff are in the process of drafting and reviewing a policy to outline situations where the right to purchase might be exercised. The City has not independently exercised the right to purchase any of the units that have been offered thus far.

While the SCCO provides the right to purchase, it does not identify or provide a subsidy source to make such a purchase. Table 4 illustrates the average offer prices by unit size that have been received between October 7, 2020 and June 30, 2020. The Housing Division received 38 offers during that time; another 5 applications comprising a total of 10 units are pending the submission of their offers. Seven (7) applications were not required to submit a right to purchase offer due to their owner-occupancy status.

Because the Right to Purchase is required for all vacant and tenanted rental units, there is a large pipeline of offers that will persist as long as owners continue to submit applications. In order for the City and local affordable housing developers to take advantage of these opportunities to purchase, a dedicated subsidy source is needed, given the very high offers being received. Any units purchased using the City/Designee right to purchase are required to be for the purposes of affordable housing *only*, so this provision cannot be used for the purposes of making a profit off of the unit.

Table 3- Right to Purchase Offer Data³

Unit Size (# of bedrooms)	Average Offer	Number of Units by Size
1	\$550,000.00	1
2	\$718,278.57	14
3	\$955,526.67	15
4	\$884,142.86	7
5	\$1,190,000.00	1
Average Price/Total	\$850,468.42	38

Litigation Challenging Updated Ordinance

The updated Ordinance originally was due to go into effect on July 31st, 2019, one month after the close of FY19. Implementation was delayed by roughly two months due to litigation collectively filed against the City by an individual and organization respectively: Mr. Stephen Bremis and the Somerville Property Owner's Coalition (SPOC). A request to postpone implementation of the ordinance while litigation was pending was denied on August 22, 2019 and the law technically took effect as of August 23, 2019. The first Condominium Review Board hearing at which the updated Ordinance was enforced was held on October 7, 2019. As of this report, litigation against the ordinance remains pending; there are no scheduled hearing dates or other milestones that the City is aware of at this time.

Broader Trends and Selected Concluding Notes

Over the decade from FY 2010 through FY 2020 ending (June 30, 2020) a total of 1,656 rental units were removed from Somerville's rental market and converted to condominium units. Note that figures in Table 5 below include *only* granted permits for rental units; they do not include applications that remain pending or applications for non-rental units.

Table 4- Condominium Conversion Permits Issued by Year- Rental Units Only

Calendar Year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020*
Converted Rental Units⁴	139	111	133	137	141	139	203	143	266	234	10

*Figure includes data for the period between January and August 2020

The vast majority of the applications received in 2020 remain conditional due to the changes in how and when final permits are issued under the updated SCCO. In calendar year 2020 alone, there are 43 additional units with conditional approval, with approximately three months remaining in the year.

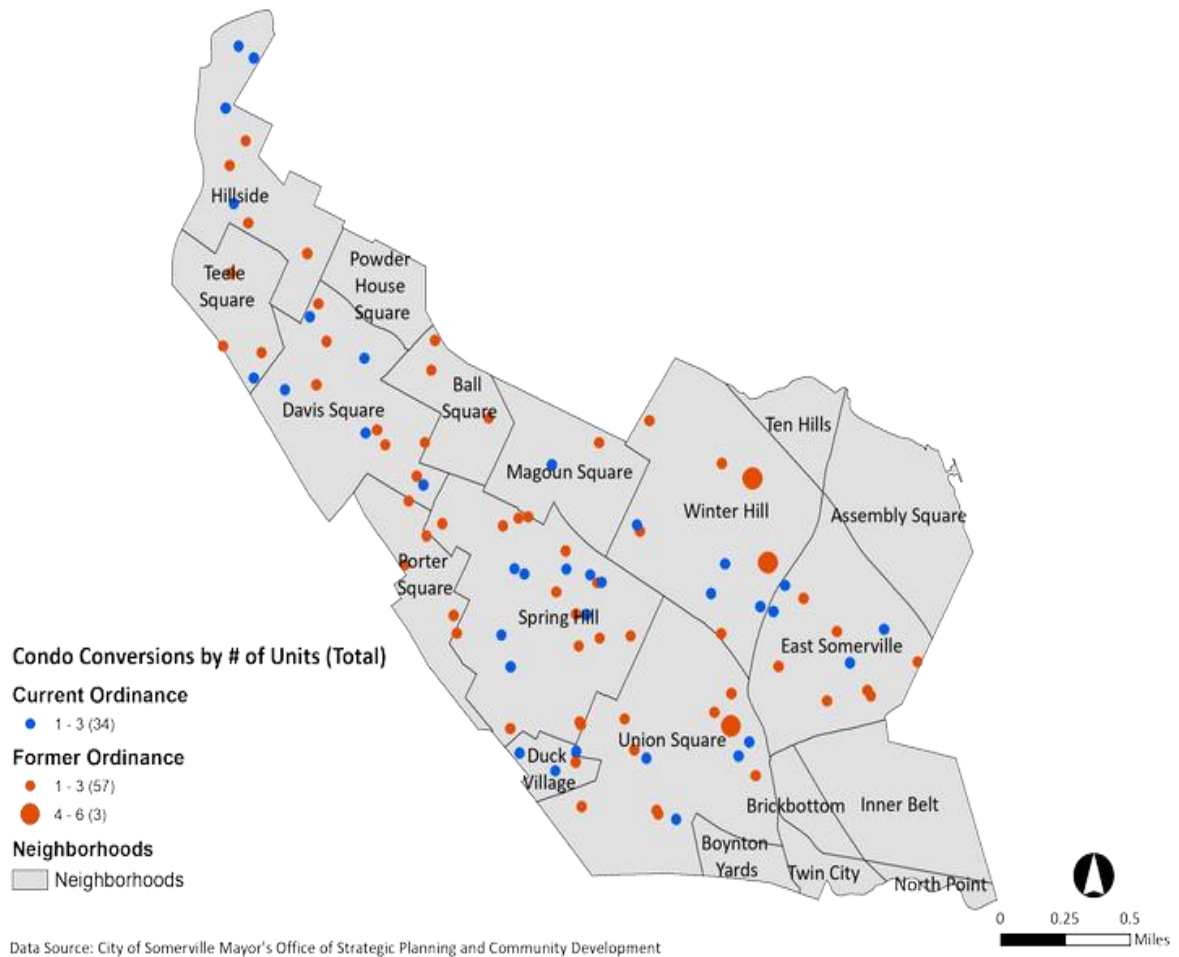
Preliminary data available indicates that revisions to the SCCO have had a significant impact on condominium conversion patterns in Somerville – including a reduction in overall number and an increase in conversions by owner-occupants. It is now clear that ordinance changes have not put a halt to condominium conversions (a concern expressed by individuals and organizations that opposed the changes adopted in 2019). Table 5 suggests another concern that does not appear to have been borne out – that a strengthening of tenant protections and requiring a waiting period would cause a sudden drop in prices. Other benefits of the SCCO changes appear to include owner-occupants not only remaining able to convert their property, but accounting for more conversion activity (compared to developers) than under the former SCCO. At the same time, tenants have successfully availed themselves of the enhanced SCCO protections.

³ Includes applications submitted between Oct 2019-June 2020

⁴ Does not include non-rental conversion

Appendix 1- FY 20 Condominium Conversions

FY20 Condominium Conversions



Appendix 2 - Applications by Neighborhood

Neighborhood	Applications	Units
Ball Square	3	5
Davis Square	12	22
Duck Village	3	6
East Somerville	11	21
Hillside	8	16
Magoun Square	2	4
Porter Square	4	8
Spring Hill	23	51
Teele Square	4	9
Union Square	14	34
Winter Hill	10	23
Grand Total	94	199

Data Source: City of Somerville Mayor's Office of Strategic Planning and Community Development

Appendix 3 - Applications by Ward

Ward	Applications	Units
1	14	28
2	15	31
3	18	45
4	7	16
5	11	22
6	13	26
7	16	31
Total	94	199

Data Source: City of Somerville Mayor's Office of Strategic Planning and Community Development